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SUBJECT: NEW CONSTITUTION MAY DELAY BUT SHOULD NOT PREVENT DOMINICAN TROOP CONTRIBUTION TO MINUSTAH

Sensitive but Unclassified. Please protect accordingly.

¶1. (U) The Dominican Republic, on 1/26/10, promulgated a new Constitution, which contains a provision that could delay a Dominican troop deployment to MINUSTAH. Article 80(6) states that, "in the absence of a prior agreement," any deployment of foreign troops to the Dominican Republic, or of Dominican troops abroad, will require the approval of the Senate.

¶2. (U) Senate President Reinaldo Pared has opined that the Executive Branch's decision to send troops was made before the new Constitution went into effect, and thus may constitute the "prior agreement" that would vitiate the requirement for Senate ratification. On the other hand, Chamber of Deputies President Julio Cesar Valentin, who is a firm advocate for greater congressional authorities, has declared that Senate approval will be necessary for any deployment of Dominican forces to Haiti under MINUSTAH.

¶3. (SBU) COMMENT: There are two political issues at stake that make it more likely than not that the MINUSTAH contribution will go to the Senate for its approval. First is the question as to whether Dominican troops should be deployed to Haiti. This is a controversial issue here given the country's history of military conflict with Haiti and the two nations' historically complicated bilateral relationship, which some fear will make Dominican troops targets. Opposition leader Miguel Vargas Maldonado of the Revolutionary Dominican Party (PRD), for example, has publicly opposed the MINUSTAH deployment on these grounds while at the same time strongly supporting relief and reconstruction assistance to Haiti. Second is the desire by many in Congress to assert the Legislative Branch's increased power vis a vis the Executive Branch under the new Constitution. If the matter goes to the Senate for approval, however, the Government should prevail, given that the ruling Dominican Liberation Party (PLD) and its Social Christian Reformist Party (PRSC) allies control 26 of the 32 seats. Consequently, the new Dominican Constitution may delay the country's proposed MINUSTAH deployment, but should not prevent it.

¶4. (SBU) COMMENT (CONTINUED): It remains unclear how Article 80 will affect U.S. military deployments, exercises and training in the DR. We have been discussing this with the Government since late November, when Article 80 was approved. The Foreign Ministry's initial informal take was that the "prior agreement" standard avoiding Senate approval applies to our ongoing deployments, including the San Isidro and Barahona air bridges, as they are being carried out under the aegis of our 1988 exchange of

notes on the status of U.S. military forces in the DR and the Government's oral agreement to our increased presence in order to advance Haiti relief and reconstruction efforts. The Foreign Ministry's legal advisor, however, continues to analyze this issue. We would not be surprised if this process of analysis becomes indefinite in duration, as the Ministry may be loathe to propose a definitive opinion in the absence of a political necessity to do so. END COMMENT.

Lambert